D.B.HABEAS CORPUS PETITION NO.2896/2006
(Bhanwar Lal v. State of Rajasthan & others)

1/6/2006

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.D.K.Gaur, for the petitioner.

1. The instant Habeas Corpus Petition has been filed by petitioner Bhanwarlal seeking direction to produce the corpus his daughter namely Kavita alias Bittu/Doli from the custody of fifth respondent viz. Smt.Geeta Devi. It is averred that petitioner solemnized the marriage with Kanta, daughter of late Tansukh Das on 18.2.1984. Out of their wedlock, in the year 1997, a female child was born. Some differences took place between them which resulted in filing of Divorce petition & some criminal cases. Later-on, the matter was compromised. During period of litigation, Smt.Kanta with daughter Kavita had stayed with fifth respondent viz; Smt.Geeta Devi. Though petitioner's wife Kanta is staying with him, his minor daughter Kavita is still in the custody of fifth respondent Geeta Devi, who is mother of his wife.

2. We are of the view that the instant Habeas Corpus Petition is not maintainable as it involves essentially a question of custody of a child. Even according to the averments made by the petitioner, there have been matrimonial and other criminal cases between him and his wife. During the pendency of such cases, the subject Corpus stayed with the fifth respondent. Thus, if there can be any grievance for the proper custody of the child, that can be of mother of Corpus viz. Kanta. The instant petition filed on behalf of father of child is not maintainable. We are not aware of the stand of Kanta, who is mother of child. Thus, we are not inclined to entertain the petition.

3. Accordingly, the instant Habeas Corpus Petition stands dismissed. However, this will not affect the right of Mst.Kanta to approach this Court by way of Habeas Corpus Petition for custody of her daughter Kavita.

(MANAK MOHTA), J. **(N.N.MATHUR), J.**

RANKAWAT JK, PS